

## Environmental Protection Agency

## §35.3110

Funds, which was signed by the Assistant Administrator for Water on January 28, 1988, and the supplementary memorandum to the Initial Guidance for State Revolving Funds, which was signed by the Assistant Administrator for Water on September 30, 1988. Copies of both documents can be obtained by writing the Office of Municipal Pollution Control (WH-546), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

(c) These regulations supplement title VI by codifying all major program requirements, applicable to the SRF program. EPA will not impose additional major program requirements without an opportunity for affected parties to comment. The process for amending this regulation to incorporate these requirements will begin within three months of their issuance.

### §35.3105 Definitions.

Words and terms that are not defined below and that are used in this rule shall have the same meaning they are given in 40 CFR part 31 and 40 CFR part 35, subpart I.

(a) *Act*. The Federal Water Pollution Control Act, more commonly known as the Clean Water Act (Pub. L. 92-500), as amended by the Water Quality Act of 1987 (Pub. L. 100-4). 33 U.S.C. 1251 *et seq.*

(b) *Binding Commitment*. A legal obligation by the State to a local recipient that defines the terms for assistance under the SRF.

(c) *Capitalization Grant*. The assistance agreement by which the EPA obligates and awards funds allotted to a State for purposes of capitalizing that State's revolving fund.

(d) *Cash draw*. The transfer of cash under a letter of credit (LOC) from the Federal Treasury into the State's SRF.

(e) *Disbursement*. The transfer of cash from an SRF to an assistance recipient.

(f) *Equivalency projects*. Those section 212 wastewater treatment projects constructed in whole or in part before October 1, 1994, with funds "directly made available by" the capitalization grant. These projects must comply with the requirements of section 602(b)(6) of the Act.

(g) *Funds "directly made available by" capitalization grants*. Funds equaling the amount of the grant.

(h) *Payment*. An action by the EPA to increase the amount of capitalization grant funds available for cash draw from an LOC.

(i) *SRF*. State water pollution control revolving fund.

### §35.3110 Fund establishment.

(a) *Generally*. Before the Regional Administrator (RA) may award a capitalization grant, the State must establish an SRF that complies with section 603 of the Act and this rule.

(b) *SRF accounts*. The SRF can be established within a multiple-purpose State financing program. However, the SRF must be a separate account or series of accounts that is dedicated solely to providing loans and other forms of financial assistance, but not grants.

(c) *SRF administration*. The SRF must be administered by an instrumentality of the State that is empowered to manage the Fund in accordance with the requirements of the Act. Where more than one agency of the State is involved in administering the activities of the State's program, the functions and the relationships of those agencies must be established to the satisfaction of the RA.

(d) *Documentation of the establishment of an SRF program*. (1) As part of its initial application for the capitalization grant, the State must furnish the RA with documentation of the establishment of an SRF and designation of the State instrumentality that will administer the SRF in accordance with the Act.

(2) With each capitalization grant application, the State's Attorney General (AG), or someone designated by the AG, must sign or concur in a certification that the State legislation establishing the SRF and the powers it confers are consistent with State law, and that the State may legally bind itself to the terms of the capitalization grant agreement.

(3) Where waiting for the AG's signature or concurrence would by itself significantly delay awarding the first grant (i.e., there are no other issues holding up the award), the head or chief legal officer of the State agency